

DATE: March 20, 1998

FROM: Ted S. McGregor

TO: Advisory Committee; Judge Rossmeissl, Judge Klobucher
Judge Williams, Jake Miller, Ford Elsaesser, Dan Brunner, Ian Ledlin,
Bill Hames, Bill Beatty, Tony Grabicki, John Powers, Jim Hurley,
Rick Hayden

SUBJECT: REPORT ON MEETING OF ADVISORY COMMITTEE

A meeting of the Standing Advisory Committee for the U.S. Bankruptcy Court for the Eastern District of Washington was held on Friday, March 13, 1998 in Spokane. In attendance were Judge Rossmeissl, Judge Williams, Ted McGregor, Jake Miller, Dan Brunner, Joe Harkrader, Richard Hayden, Jim Hurley, Bill Hames, Ian Ledlin, and John Powers.

Judge Rossmeissl reported that a good deal of emphasis has been on the Chapter 13 process and that progress is apparent, although a bit slower than hoped for. He did note that filings have increased to an all time high, and thus there were simply more chapter 13 cases filed, and that the new cases are being handled quite efficiently. Judge Williams reported that her chambers, although very busy, is getting the work done.

Bill Hames gave a review of the upcoming Sun Mountain Seminar to be held June 5-6, 1998. He reported that two national speakers are scheduled and also that the association is addressing various "pro-bono" issues. Also discussed was the thought to have a Sunday, June 7, 1998 meeting of the Advisory Committee. A Sunday meeting was discussed since it would not interfere with the ever increasing activities of the seminar itself.

Ted McGregor reported that the filings for the district are at an all time high; he noted that in 1995, 4207 cases were filed, in 1996, 5731 were filed and in 1997, 7018 were filed. Filings thus far in 1998 appear to be on the increase. The introduction and use of various electronic initiatives has helped to offset the increase in workload. During 1997, PAS, which allows modem access to court information, was used for a total of over 489 hours, and there were an average of 3321 calls per month handled by VCIS, which allows for touch tone phone access to court information, and that greater and greater use is being made of various electronic innovations to offset the work caused by the filings. Ted announced that the Court now has a WEB site on the Internet, accessible at www.waeb.uscourts.com.

Dan Brunner reported that the Chapter 13 office is very close to having its data base available electronically to users.

The discussion then turned to the proposals for changes to the local rules.

LBR 1007-1 - Lists, Schedules, & Statements was proposed to be changed to add a procedure for getting an extension of the time to file schedules, statements of affairs, chapter 12 & 13 plans and associated documents. The proposal was approved. Dan Brunner suggested a rule change that would make failure to file schedules, etc. cause for dismissal. The committee discussed the proposition, but declined to adopt it since it was felt that the issue was already addressed in LBR 2083(q)(2). A second suggestion by Dan Brunner was that the debtor be required to provide copies of schedules, etc. to the new trustee in converted cases. Although receiving schedules in a converted case by the new trustee was seen as a problem, automation may provide the solution. Ted McGregor said that as to imaged cases, which are all cases filed since January 1, 1997, the required documents could and would be faxed to the gaining trustee.

LBR 2007.1-1 Trustees & Examiners (Chapter 11); LBR 3016-1 (b) - Election to Be Considered a Small Business; LBR 3017-1(c) Conditional Approval of Disclosure Statement; and LBR 9015-1 were all proposed to be abrogated since their provisions were included in FRBP 2007.1; 1020; 3017.1; and 9015 respectively and therefore would be redundant of the national rules. These proposals were all approved.

LBR 4003-1 Lien Avoidance was proposed to be amended to include specific information to be contained in the notice and motion to avoid liens pursuant to 11 USC 522(f). The more specific requirements are those that by practice have been required by the court for some time. This proposal was approved.

LBR 6008-1 Redemption. This proposal was to establish a new rule to set out local requirements for seeking an order allowing redemption pursuant to 11 USC 722. This proposal was approved.

LBR 9004-1(a)(2) Papers - Requirements of Form. The proposal was to require that documents containing two or more pages be stapled, and to prohibit the stapling together of separate documents. LBR 9004(a)(10) was proposed to be changed to delete the requirement of providing the language "this ___ day of ___ 19 ___" on documents requiring the signature of the Court. These proposals were approved.

A more spirited discussion was had over suggested changes to LBR 2083 concerning both income directives, and pre-confirmation adequate protection payments. Presently, an income directive pre-confirmation is controlled by LBR 2083-1(p) and only permitted after notice or by stipulation with the debtor. The general consensus of the committee was that income directives were very helpful to the success of plans and that pre-confirmation income directives should be allowed unless actively opposed by the debtor in some fashion. Examples of situations where income directives simply would not work were given making the case for some opportunity to oppose or resist them in special cases. Dan Brunner was tasked with drafting proposed changes to LBR 2083(p) and perhaps the form plan or other documents to be an agenda item at the next

meeting of the committee.

Changes to the LBR 2083(1)(6) adequate protection payments were another item that was thoroughly discussed by the committee. Ian Ledlin was the principal proponent of a rule change that would allow a broader range of areas that could be the basis for pre-confirmation payments. Dan Brunner noted that the reason for the rule was primarily to address mortgage payments and vehicle payments, and prevent the need to lift stay motions. He advised that the initial purpose or scope should not be expanded. Whether or not a creditor ought to be able to initiate such a motion was also discussed. The committee did not come to consensus on the issue, and the matter was asked to be carried over to the next meeting. No one was tasked with the drafting of any proposed change to the rule.

Judge Rossmeissl indicated that he felt a discussion on attorney fees would be an appropriate topic for the next meeting, everything from disclosure requirements to allowance and payment. Anyone who would like to identify an issue or suggest a change to those local rules that deal with fees, such as 2014-1, 2016-1, or 9011-1 should notify me in writing so the topic can become focused.

The next meeting of the committee is set to coordinate with the Association Seminar at Sun Mountain which is scheduled for Friday, June 7, and Saturday June 8, 1998. The suggestion was made that the meeting occur on Sunday, June 9, 1998 since that date would not interfere with the activities of the seminar itself, and was generally agreed to. I would like, however, to suggest that meeting on Sunday most likely would limit the length of the meeting since all of the members live some distance from Sun Mountain. To hold the meeting on Thursday might allow for a longer meeting of the Advisory Committee. Our last meeting took 4 ½ hours but we did not get completely through the agenda. It is my understanding that check-in for the seminar begins at 7 p.m. on Thursday, June 6. I would like to get input from each of you as to what day the meeting should be, Thursday or Sunday, and for how long. Suggestions to consider might include:

Thursday from 9 a.m. until 4 p.m. - (6 hours + lunch)

Thursday from Noon until 6 p.m. - (6 hours no lunch)

Sunday from 8 a.m. until noon - (4 hours)

Sunday from 9 a.m. until 2 p.m. - (6 hours no lunch)

Once I get input from all of you I will discuss the matter with Judge Rossmeissl and Bill Hames. My fax number is 509-353-2417, phone 509-353-2404, extension 228.

The following are the dates for having items placed on the agenda for the June meeting:

April 6, 1998 - Written drafts, with supporting materials to the Clerk of the Court.
April 22, 1998 - The Clerk of the Court to send to each member of the committee the materials submitted by the proponent.
May 15, 1998 - Written materials concerning the above items and any other agenda items to be received by the Clerk.

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May 20, 1998 - Agenda and other materials sent to members by the Clerk of the Court.

The exact date and time of the June meeting at Sun Mountain will be announced as soon as possible.